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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE
425 Eye Street N.W.
BCIS, AAO, 20 MASS, 3/F
Washington, D.C. 20536

[redacted]

JUN 27 2003

File: WAC 01 217 54826 Office: CALIFORNIA SERVICE CENTER Date:

IN RE: Petitioner:
Beneficiary: [redacted]

Petition: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:
This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of $110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Acting Director, California Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a church. It seeks classification of the beneficiary as a special immigrant minister pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), in order to employ him as a minister of the gospel at a monthly salary of $1,900.

The acting director denied the petition, finding that the petitioner failed to establish that the beneficiary had been continuously carrying on the vocation of a minister for at least the two years preceding the filing of the petition.

On appeal, an official of the church states that the beneficiary has worked 35 to 40 hours a week for more than two years for the petitioner.

Section 203(b)(4) of the Act provides classification to qualified special immigrant religious workers as described in section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C), which pertains to an immigrant who:

> (i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;
>
> (ii) seeks to enter the United States--
>
> (I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,
>
> (II) before October 1, 2003, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or
>
> (III) before October 1, 2003, in order to work for the organization (or for a bona fide organization which is affiliated with the

religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Code of 1986) at the request of the organization in a religious vocation or occupation; and

(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i).

The petitioner in this matter is church affiliated with the International Church of the Foursquare Gospel. The beneficiary is a native and citizen of Argentina who last entered the United States on November 18, 1995 in an undisclosed manner.

The sole issue raised by the acting director in these proceedings is whether the petitioner established that the beneficiary has the two years requisite experience in the proffered position.

The petition was filed on April 25, 2001. Therefore, the petitioner must establish that the beneficiary had been continuously and solely carrying on the vocation of a minister of religion since at least April 25, 1999.

In this case, an official of the petitioning church indicated that the beneficiary had voluntarily served with the petitioning church as a deacon, bible study teacher, preacher and men's ministries director. The evidence on the record indicates that the beneficiary was not remunerated by the petitioning church for his services but that the beneficiary has been working as an on-site manager for an apartment complex, as a clerk, and as a self-employed window cleaner.

To qualify for special immigrant classification in a religious occupation, the job offer must show that the beneficiary will be employed in the conventional sense of full-time salaried employment and will not be dependent on supplemental employment. Because the statute requires two years of continuous experience in the same position for which special immigrant classification is sought, the prior experience must have been full-time salaried employment in order to qualify. The acting director determined that the evidence shows that the beneficiary was not working for the

petitioning organization on a full-time salaried basis. The AAO concurs.

In 1980, the Board of Immigration Appeals determined that a minister of religion was not "continuously" carrying on the vocation of minister when he was a fulltime student who was devoting only nine hours a week to religious duties. *See Matter of Varughese*, 17 I&N Dec 399 (BIA 1980). This conclusion is on point with the situation found in the current proceeding.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden.

ORDER: The appeal is dismissed.